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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,811	12/12/2001	Robert J. Gaskins	ZK988/02014	8923
27868	7590	10/14/2004	EXAMINER	
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			PAYNE, SHARON E	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/020,811

Applicant(s)

GASKINS ET AL.

Examiner

Sharon E. Payne

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-16 and 18-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Mellema (U.S. Patent 4,551,793).

Concerning claim 18, Mellema discloses a luminaire housing (Figs. 1 and 2), a lamp (reference number 14) within the luminaire housing (Figs. 1 and 2), a support arm (portion to the left of the lamp) outwardly extending from and integral with the housing (Fig. 1) and adapted to receive and securely affix a davit arm therein (Fig. 1); and a mounting face (reference number 13) on the support arm (Fig. 1, portion to the left of the lamp) mountable on a side of a vertical lighting support pole (Fig. 2).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 10, 12, 13, 15, 19-22 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellema in view of Taylor (U.S. Patent 4,426,676).

Regarding claim 10, Mellema discloses a light fixture housing (Figs. 1 and 2) and a support arm extending outward from the housing and integral therewith (Figs. 1 and 2), the support arm having a vertical mounting plate (reference number 13) the support arm further having a davit arm aperture formed in the vertical mounting plate (Fig. 2). Mellema does not disclose the clamp bracket. Taylor discloses the clamp bracket internally affixed to the support arm (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the internal clamp bracket of Taylor in the apparatus of Mellema to hold on to the davit arm. See Fig. 2 of Taylor.

Regarding claim 12, Mellema does not disclose a leveling bracket. Taylor discloses a leveling bracket extending longitudinally through the support arm (Fig. 2, column 3, lines 1-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bracket of Taylor in the apparatus of Mellema to level the apparatus.

Concerning claim 13, Mellema does not disclose a leveling bolt. Taylor discloses a leveling bracket receiving a leveling bolt (reference number 21), the leveling bolt threadably received into the support arm (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bolt of Taylor in the apparatus of Mellema to attach the apparatus.

Regarding claim 15, Mellema does not disclose a leveling mechanism. Taylor discloses a leveling mechanism in the support arm (column 3, lines 1-18), the leveling mechanism being designed to compress against a davit arm extending longitudinally into the support arm (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling mechanism of Taylor in the apparatus of Mellema to level the apparatus.

Regarding claim 19, Mellema does not disclose a clamp bracket or a leveling mechanism. Taylor discloses a support mount with a clamp bracket affixed to the support mount (column 2, lines 46-64) and a leveling mechanism (column 3, lines 1-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling mechanism of Taylor in the apparatus of Mellema to level the apparatus.

Concerning claim 20, Mellema does not disclose a leveling bracket. Taylor discloses a leveling bracket extending along a portion of the interior of the support mount (Fig. 2) and is adjustable therein (column 3, lines 1-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling mechanism of Taylor in the apparatus of Mellema to level the apparatus.

Regarding claim 21, Mellema does not disclose a leveling bracket. Taylor discloses a leveling bracket that is securely affixed at a first end to the support mount and is movable adjustable at a second opposite distal end (column 3, lines 1-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bracket of Taylor in the apparatus of Mellema to level the apparatus.

Concerning claim 22, Mellema does not disclose a leveling bracket or a leveling bolt. Taylor discloses a leveling bracket that has an aperture at the second end which receives a leveling bolt (column 3, lines 1-18), the leveling bolt threadably received within the support mount (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bracket of Taylor in the apparatus of Mellema to level the apparatus.

Regarding claim 28, Mellema discloses a fixture housing having a lamp and lens (Fig. 1), said housing having a curvilinear mounting surface (left and bottom portion of the housing taken together), said curvilinear mounting surface further having a mounting davit arm aperture (reference number 35) for receiving a davit arm therethrough (Fig. 1), the curvilinear surface having at least one mounting aperture (reference number 35). Mellema does not disclose a clamping bracket.

Taylor discloses a clamping bracket within the fixture housing adjacent the davit arm aperture (Fig. 2) and in opposing relationship with a leveling bracket (portion on bottom of davit arm, Fig. 2), the leveling bracket having a first end within the aperture (Fig. 2) and a second end engaging a leveling bolt (reference number 22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the clamping bracket of Taylor in the apparatus of Mellema to clamp the davit arm. See Fig. 2 of Taylor.

6. Claims 1, 5, 6 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellema in view of Bilson et al. (U.S. Patent 4,152,757).

Regarding claim 1, Mellema discloses a road illumination luminaire for pole mounting. The luminaire includes a housing (Figs. 1 and 2), the housing having an illumination source (reference number 14) located therein (Figs. 1 and 2); a support arm integral with and affixed to the housing (Figs. 1 and 2), the support arm having a mounting plate for vertical surface mounting (cover member, reference number 13) and an integral davit arm aperture (reference number 35). Mellema does not disclose an arcuate mounting surface.

Bilson et al. discloses an arcuate mounting surface for vertical surface mounting (Fig. 1, reference numbers 22 and 26). The *outline* of the mounting surface is arcuate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the arcuate mounting surface of Bilson et al. in the apparatus of Mellema to mount the apparatus on a vertical tube.

Concerning claim 5, Mellema discloses the mounting surface (reference number 13) that is located on a distal end of the support arm opposite the housing (Figs. 1 and 2).

Regarding claim 6, Mellema does not disclose a mounting plate with a curved surface. Bilson et al. discloses a mounting plate with a curved surface (Fig. 1, reference number 26) and at least one bolt aperture extending therethrough (reference number 24). Mellema does not specifically disclose the mounting bolt.

Having the bolt aperture receive a mounting bolt is considered to be an obvious variation in design. Since the bolt is well known in the art, it would have been obvious to one of ordinary skill in the art to use the mounting bolt in the Mellema reference for attaching a light to a post.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the mounting plate of Bilson et al. in the apparatus of Mellema to mount the light to a pole.

Concerning claim 23, Mellema does not disclose a curved mounting face. Bilson et al. discloses a curved mounting face (reference number 26, Fig. 1). (The outline of the mounting face is curved.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the mounting face of Bilson et al. in the apparatus of Mellema to mount the light to a pole.

7. Claims 2-4, 7-9, 14, 16 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mellema and Taylor and further in view of Bilson et al.

Regarding claim 2, Mellema does not disclose a clamp bracket. Taylor discloses a clamp bracket in the support arm for securely affixing the support arm to a light pole inserted through the davit arm aperture (column 2, lines 46-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the clamp bracket of Taylor in the lamp of Mellema to clamp the apparatus to the light pole.

Concerning claim 3, Mellema does not disclose a leveling bracket. Taylor discloses a leveling bracket extending along an upper surface of the support arm and opposing the clamp bracket (Fig. 2) (The bottom portion with the screws is the leveling bracket, and the top portion with the ridges is the clamp bracket.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bracket of Taylor in the apparatus of Mellema to level the apparatus.

Regarding claim 4, Mellema does not disclose a leveling bolt. Taylor discloses a leveling bolt (reference number 21) extending through the leveling bracket and threadably received into the support arm (Figs. 2 and 3).



It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bolt of Taylor in the apparatus of Mellema to attach the apparatus.

Concerning claim 7, Mellema does not disclose a removably attached cover plate. Taylor discloses a removably attached cover plate (reference number 4, Fig. 1).

It would have been obvious to use the cover plate of Taylor in the apparatus of Mellema to enable one to get inside the apparatus.

Regarding claim 8, Mellema does not disclose a clamp bracket. Taylor discloses a support arm with a curvilinear clamp bracket (Fig. 2, top) in the interior of the support arm, and further wherein the support arm has at least one clamp bolt (reference number 22) extending through the clamp bracket for securely affixing the clamp bracket to the support arm (Fig. 2), further the support arm having a leveling bracket (reference number 14) extending longitudinally therethrough (Fig. 2), the leveling bracket further having a leveling bolt (reference number 21) extending through the leveling bracket (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the curvilinear clamp bracket of Taylor in the apparatus of Mellema to clamp the davit arm.

Concerning claim 9, Mellema does not disclose a leveling mechanism. Taylor discloses a leveling mechanism within the support arm (column 3, lines 1-18).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling mechanism of Taylor in the apparatus of Mellema to level the apparatus.

Regarding claim 14, Mellema does not disclose a curved mounting plate. Bilson et al. discloses a vertical mounting plate formed at a distal end of the support art opposite the light fixture housing (Fig. 1), the vertical mounting plate having at least one bolt receiving aperture

(reference number 24) extending therethrough (Fig. 1) and having an outward curved face (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the mounting plate of Bilson et al. in the apparatus of Mellema to mount the light to a pole.

Concerning claim 16, Mellema does not disclose a curvilinear mounting face. Bilson et al. discloses a vertical mounting plate that has an outwardly facing curvilinear mounting face (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the curvilinear mounting face of Bilson et al. in the apparatus of Mellema to mount the apparatus.

Regarding claim 24, Mellema discloses a fixture housing having a lamp and lens (Fig. 1), said housing having a curvilinear mounting surface (left and bottom portion of the housing taken together), said curvilinear mounting surface further having a mounting davit arm aperture (reference number 35) for receiving a davit arm therethrough (Fig. 1). Mellema does not disclose an internal clamp or an aperture for a mounting bolt.

Taylor discloses an internal clamp (Fig. 2, portion around davit arm) positioned within the housing (Fig. 2) and compressively engageable against a davit arm (Fig. 2).

Bilson et al. discloses the curvilinear mounting surface having at least one mounting aperture (reference number 24) for receiving a mounting bolt (Fig. 1).

The portion of the claim stating "for mounting directly against a vertical light pole" constitutes functional language that is not given patentable weight. See M.P.E.P. 2114.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the clamp of Taylor in the apparatus of Mellema to secure the davit arm.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the aperture of Bilson et al. in the apparatus of Mellema to receive a bolt.

Concerning claim 25, Mellema does not disclose a leveling bracket. Taylor discloses an internal clamp with a leveling bracket in opposing relationship (Fig. 2). (The bottom portion with the screws is the leveling bracket, and the top portion with the ridges is the clamp bracket.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bracket of Taylor in the apparatus of Mellema to level the apparatus.

Concerning claim 26, Mellema does not disclose a leveling bolt. Taylor discloses a leveling bracket having a leveling bolt (reference number 21), extending therethrough and threadably received in the housing (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the leveling bolt of Taylor in the apparatus of Mellema to attach the apparatus.

Regarding claim 27, Mellema does not disclose a leveling bolt. Taylor discloses a leveling bolt that has an outwardly extending flange positioned against a lower surface of the leveling bracket (Fig. 2). (The leveling bolt itself has a flange at the portion of the bolt that meets the leveling bracket.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the flange disclosed in Taylor in the apparatus of Mellema to hold the bolt onto the leveling bracket. See Fig. 2 of Taylor.

***Allowable Subject Matter***

8. Claim 17 is allowed.

9. The following is a statement of reasons for the indication of allowable subject matter.

The prior art fails to disclose a universal mount luminaire having an integrated connector means

affixed to the housing for mounting the luminaire to a pole extending on a vertical axis and a second integrated means affixed to the housing for mounting the luminaire to a pole extending along a horizontal axis. (Mellema teaches everything except the integration of the connector means and the second means, but Mellema teaches against making these features integral.)

### ***Response to Arguments***

10. Applicant's arguments filed 5 August 2004 have been fully considered but they are not persuasive.

The curvilinear (or arcuate) mounting surface is shown in Bilson et al. The *outline* of the mounting surface is curved, which meets the limitation of the claims. Nothing in the claims requires that the portion having a normal parallel to the axis of the davit arm aperture conform to a vertical mounting surface that is not planar.

Furthermore, the internal clamp and bracket mentioned in the new and amended claims is shown in Taylor in Fig. 2. The portion above the davit arm is the clamping bracket, and the portion below the davit arm is the leveling bracket.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sep

  
Stephen Husar  
Primary Examiner